

July 1, 2003

Honorable Jack O'Connell  
Superintendent of Public Instruction  
California Department of Education  
1430 N Street, Suite 5602  
Sacramento, CA 95814

Honorable Robert Presley  
Agency Secretary  
Youth and Adult Correctional Agency  
1100 11th St. 4th Floor  
Sacramento, CA 95814

Dear Superintendent O'Connell and Secretary Presley:

This is to inform you that we have conditionally approved California's Eligibility Document Submission for Federal Fiscal Year (FFY) 2003 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by the California Department of Education (CDE) to the U.S. Department of Education, Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2002 including the Eligibility Documents submitted April 11, 2000, and subsequent revisions to those Eligibility Documents, including the submissions of March 3, 2003 and May 9, 2003; and
2. The June 30, 2003 letter from California to OSEP, in which the State assures that as soon as possible, but no later than June 30, 2004, CDE will make every reasonable effort to enact all the changes to its statutes, regulations, policies and procedures, that are necessary to make them consistent with the requirements of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 300 (including, but not limited to, making all of the changes necessary to address any issues regarding implementing regulations that OSEP identifies in its April 25, 2003 review of the California's eligibility documentation) and will provide the Secretary with a copy of the revised documents showing those changes;

In the June 30, 2003 letter, California also assures that all local education agencies (LEA) and agencies serving children and youth with disabilities in California who are utilizing Federal Part B dollars are following the federal statutes and regulations consistent with IDEA 1997. To that end, all Special Education Local Planning Areas (SELPAs), as the fiscal units for flowing Federal Part B monies, will assure CDE that their constituent LEAs are operating within the legal parameters of the IDEA. The State also assures that, throughout the period of the State's grant awards for fiscal year 2003, under Part B of the

IDEA, all public agencies in the state plan (CDE eligibility document) will comply with all of the requirements of Parts A and B of the IDEA and its implementing regulations.

California further assures that CDE will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of California's eligibility documents.

Please note that as part of your Eligibility Document Submission for FFY 2003, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by the State, after OSEP approval, to information that is a part of a State's eligibility documentation, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

As detailed in Enclosure C of this letter, the Department has determined that the State remains a high risk grantee in regard to the provision of special education and related services to eligible individuals with disabilities who are convicted as adults and incarcerated in adult prisons, and Enclosure C sets forth a special condition relating to that issue. The Department's continuing imposition of a Special Condition relating to the provision of services in prisons is based upon the State's failure to fully address the California Department of Corrections' (CDC's) failure to ensure that a free appropriate public education (FAPE) is available to eligible inmates with disabilities in adult correctional facilities.<sup>1</sup>

Enclosed are grant awards for funds currently available under the Department of Education FFY 2003 Appropriations Act for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2003-2004 and are available for obligation by States from July 1, 2003 through September 30, 2005.

The amount in your award for Section 619 represents the full amount of funds to which you are entitled. However, the amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2003. Of the \$8,874,397,536 appropriated for Section 611 in FFY 2003, \$3,202,397,536 is available for awards on July 1, 2003, and \$5,672,000,000 will be available on October 1, 2003.

The funding formula for the Section 611 program is the same as was implemented for FFY 2000. Subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children

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<sup>1</sup> On June 5, 1997, in his Executive Order W-155-97, former Governor Wilson transferred from CDE to CDC the responsibility for ensuring that the requirements of the IDEA are met with respect to eligible youth who are convicted as adults under State law and are incarcerated in adult prisons.

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with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities.

Enclosure A provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure A shows funding levels for distribution of Section 611 funds.

Enclosure B provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure B shows State-by-State funding levels for distribution of Section 619 funds.

These awards are based on submission of a complete eligibility document package, a signed assurance statement regarding resolution of issues identified in OSEP's review of that eligibility document package, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

/s/Patricia J. Guard for

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosures

cc: Dr. Alice D. Parker